

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 9, 10 and 25-50 are pending in the application, with claims 9, 10, and 25 being the independent claims. Claims 1-8 and 11-24 are sought to be canceled without prejudice thereto. Claims 9 and 10 are sought to be amended. New claims 25-50 are sought to be added. Support for new claims 25-33 can be found, *inter alia*, at page 3, paragraph 13, through page 5, paragraph 22. Support for new claim 34 can be found, *inter alia*, at pages 16-18, Tables 10-12. Support for new claims 35-47 can be found, *inter alia*, at page 5, paragraph 25, through page 6, paragraph 27. Support for new claims 48-50 can be found, *inter alia*, at page 2, paragraph 7 and claims 22-24 of the application as filed. No new matter is added by way of these amendments.

Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

***Information Disclosure Statement***

The Examiner stated several documents were not considered in the Information Disclosure Statement (IDS) filed on August 7, 2002. The Examiner is of the opinion that "[t]he instant application does not have an assignee on file. Thus, it is not clear that the lined-through applications are in fact from the same assignee as the instant case." *See* Office Action, page 2, lines 4-15. Applicant respectfully disagrees, and offers the following remarks in response to the Examiner's request for clarification.

The present application was assigned to Invitrogen Corporation in its priority application (provisional appl. no. 60/261,256) and the assignment was recorded at reel 011716, frame 0232. The assignment covers said provisional application and "all non-provisional applications thereon," including the present application.

Table 1 shows the assignment information for documents AR3, AS3 and AR4. Documents AR3 and AR4 were assigned in their respective priority applications. The assignments for said priority applications cover "all non-provisional applications thereon." Documents AR3, AS3 and AR4, have common ownership with the present application. Applicant respectfully requests that the Examiner consider documents AR3, AS3 and AR4.

**Table 1**

<b>Document</b>	<b>Assignee</b>	<b>Assigned in</b>	<b>Assignment Recordation (Reel / Frame)</b>
AR3	Invitrogen Corporation	Provisional Appl. No. 60/114,865 <sup>a,b</sup>	010266 / 0376
AS3	Invitrogen Corporation	Document AS3	010957 / 0412
AR4	Invitrogen Corporation	Non-Provisional Appl. No. 08/975,976 <sup>a,b</sup>	9308 / 0468

<sup>a</sup> Priority application

<sup>b</sup> Assignment covers "all non-provisional applications thereon"

Furthermore "[a]n information disclosure statement *shall* be considered by the Office if filed by the applicant . . . [b]efore the mailing of a first Office action on the merits . . ." 37 C.F.R. § 1.97(b)(3) (2003) (emphasis added). The Examiner, therefore, has no discretion in considering the documents submitted in Applicant's IDS filed on August 7, 2002, which is before the August 25, 2003 mailing date of the present Action. Applicant respectfully requests the Examiner consider documents AR3, AS3 and AR4,

initial the PTO-1449 forms and forward a copy of the initialed forms to Applicant's undersigned representative. Courtesy copies of pages 3 and 4 of the Form PTO-1449 are attached for the Examiner's convenience.

***Rejections under 35 U.S.C. § 112***

Claims 2 and 11-18 have been rejected under 35 U.S.C. § 112, second paragraph. *See* Office Action, page 2, line 16, through page 4, line 5. Applicant traverses this rejection. However, solely to further prosecution, and not in acquiescence to the rejection, claims 2 and 11-18 have been canceled. Applicant submits the rejection is rendered moot and requests that it be withdrawn.

***Rejections under 35 U.S.C. § 102***

Claims 1-8, 11-15 and 19-23 have been rejected under 35 U.S.C. § 102. *See* Office Action, page 4, line 6, through page 6, line 16. Applicant traverses this rejection. However, solely to further prosecution, and not in acquiescence to the rejection, claims 1-8, 11-15 and 19-23 have been canceled. Applicant submits the rejection is rendered moot and requests that it be withdrawn.

***Rejections under 35 U.S.C. § 103***

Claims 1, 16-18 and 24 have been rejected under 35 U.S.C. § 103. *See* Office Action, page 6, line 17, through page 7, line 23. Applicant traverses this rejection. However, solely to further prosecution, and not in acquiescence to the rejection,

claims 1, 16-18 and 24 have been canceled. Applicant submits the rejection is rendered moot and requests that it be withdrawn.

***Objected to Claims 9 and 10***

The Examiner has objected to claims 9 and 10 as being dependent upon a rejected base claim. Office Action, page 8, lines 1-2. Applicant believes all claim rejections and objections have been overcome or rendered moot. Applicant respectfully submits the objection to claims 9 and 10 is improper and requests that it be withdrawn.

***Allowable Subject Matter***

The Examiner has stated claims 9 and 10 are allowable if written in independent form including all the limitations of the base claim and any intervening claims. *See* Office Action, page 8, lines 1-4. Having rewritten these claims as independent, they are in immediate form for allowance.

***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will

expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

A handwritten signature in black ink, appearing to read "Robert W. Esmond". The signature is fluid and cursive, with the first name "Robert" and last name "Esmond" clearly distinguishable.

Robert W. Esmond  
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Date: Feb 25, 2007

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